

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JODIE DEREK GRAGG,

Plaintiff,

v.

GRAYS HARBOR SHERIFFS  
DEPARTMENT *al.*,

Defendants,

Case No. C07-5499FDB/JKA

REPORT AND  
RECOMMENDATION

**NOTED FOR:  
August 15, 2008**

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. Plaintiff has been granted *in form pauperis* status (Dkt. # 5). On June 5, 2008, the court entered an Order to Show Cause why this action should not be dismissed for lack of prosecution (Dkt. # 41). The only remaining defendant, Parkhurst Hotel, was served in September of 2007. The Hotel filed a notice of appearance on October 24, 2007, (Dkt. # 16). On December 13, 2007, the Hotel filed a notice of substitution of counsel (Dkt. # 29). The Hotel did not answer the complaint or move to dismiss. All other defendants have been dismissed (Dkt. # 37).

It has been over half a year since counsel entered a notice of appearance. Plaintiff has taken no step to prosecute this action against this defendant. On June 5, 2008, the court entered an Order to Show Cause why

1 the action should not be dismissed as to this remaining defendant. Plaintiff has not file a response.

2 Plaintiff appears to have abandoned this action. Further, plaintiff has failed to respond to a court order.  
3 The court now recommends this action be **DISMISSED WITH PREJUDICE**. The dismissal would be  
4 pursuant to Fed. R. Civ. P. 41 (2)(b). This rule allows for dismissal for failure to prosecute or for failure to  
5 comply with a court order. Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil  
6 Procedure, the parties shall have ten (10) days from service of this Report to file written objections. *See*  
7 *also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of  
8 appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the  
9 clerk is directed to set the matter for consideration on **August 15, 2008**, as noted in the caption.

10  
11 DATED this 16 day of July, 2008.

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13 /S/ J. Kelley Arnold  
14 J. Kelley Arnold  
United States Magistrate Judge  
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